



## Senate

General Assembly

January Session, 2017

**File No. 677**

Senate Bill No. 1021

*Senate, April 20, 2017*

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the bill ought to pass.

### ***AN ACT REVISING THE UNIFORM FRAUDULENT TRANSFER ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-552i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) A transfer or obligation is not voidable under subdivision (1) of  
4 subsection (a) of section 52-552e against a person who took in good  
5 faith and for a reasonably equivalent value.

6 (b) Except as otherwise provided in this section, to the extent a  
7 transfer is voidable in an action by a creditor under subdivision (1) of  
8 subsection (a) of section 52-552h, the creditor may recover judgment  
9 for the value of the asset transferred, as adjusted under subsection (d)  
10 of this section, or the amount necessary to satisfy the creditor's claim,  
11 whichever is less. The judgment may be entered against: (1) The first  
12 transferee of the asset or the person for whose benefit the transfer was  
13 made, or (2) any subsequent transferee other than a good-faith

14 transferee who took for value or from any subsequent transferee.

15 (c) If the judgment under subsection (b) of this section is based upon  
16 the value of the asset transferred, the judgment must be for an amount  
17 equal to the value of the asset at the time of the transfer, subject to  
18 adjustment as the equities may require.

19 (d) Notwithstanding voidability of a transfer or an obligation under  
20 sections 52-552a to 52-552l, inclusive, a good-faith transferee or obligee  
21 is entitled, to the extent of the value given the debtor for the transfer or  
22 obligation, to (1) a lien on or a right to retain any interest in the asset  
23 transferred; (2) enforcement of any obligation incurred; or (3) a  
24 reduction in the amount of the liability on the judgment.

25 (e) A transfer is not voidable under subdivision (2) of subsection (a)  
26 of section 52-552e or section 52-552f if the transfer results from  
27 termination of a lease upon default by the debtor when the termination  
28 is pursuant to the lease and applicable law.

29 (f) A transfer or obligation is not voidable under subdivision (2) of  
30 subsection (a) of section 52-552e or section 52-552f against an  
31 institution of higher education, as defined in 20 USC 1001, if the  
32 transfer was made or obligation incurred by a parent or guardian on  
33 behalf of a minor or adult child in furtherance of the child's  
34 undergraduate education.

35 ~~[(f)]~~ (g) A transfer is not voidable under subsection (b) of section 52-  
36 552f: (1) To the extent the insider gave new value to or for the benefit  
37 of the debtor after the transfer was made unless the new value was  
38 secured by a valid lien, (2) if made in the ordinary course of business  
39 or financial affairs of the debtor and the insider, or (3) if made  
40 pursuant to a good-faith effort to rehabilitate the debtor and the  
41 transfer secured present value given for that purpose as well as an  
42 antecedent debt of the debtor.

This act shall take effect as follows and shall amend the following sections:
---

Section 1	<i>October 1, 2017</i>	52-552i
-----------	------------------------	---------

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 18 \$</b>	<b>FY 19 \$</b>
Constituent Units of Higher Education	Various - Potential Savings	Potential Significant	Potential Significant

Note: Various=Various

#### ***Municipal Impact:*** None

#### ***Explanation***

The bill results in a potential significant savings to the higher education constituent units in FY 18 and annually thereafter, as it forbids bankruptcy trustees from legally claiming education costs previously paid by a parent in bankruptcy for their child's postsecondary education.

The bill's annual potential savings could be significant, as the bill would void pending claims and prohibit future claims that could be made in the absence of the bill. Pending claims, including letters demanding payment, involve more than \$250,000 across the constituent units. It is estimated that about half of originally claimed amounts have been paid in settlements since these claims began in FY 14. If this average persists, in the absence of the bill the constituent units would pay \$125,000 in settlements for these pending claims, with timing unknown.

The savings are potential because the settlement amounts for pending claims as well as those for claims not yet filed, in the absence of the bill, are unknown.

To date, claims paid by a constituent unit have totaled \$32,728, with an annual average of \$8,727. It is estimated the aggregate amount originally claimed is approximately \$66,000. Settled claims have involved fewer than a dozen students or former students.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation in tuition, the number of times bankruptcy trustees claim funds previously paid to the constituent units, and the legal outcomes of such claims.

**OLR Bill Analysis****SB 1021*****AN ACT REVISING THE UNIFORM FRAUDULENT TRANSFER ACT.*****SUMMARY**

The Uniform Fraudulent Transfer Act (CGS § 52-552a et. seq.) protects creditors by, among other things, providing ways to determine and prohibit certain fraudulent asset transfers and obligations. It provides criteria for determining which transfers and obligations are fraudulent and allows the court, among other things, to void such transfers and obligations.

Under this bill, transfers and obligations against a higher education institution are not voidable if the transfer was made or obligation incurred by a minor's or adult child's parent or guardian on the minor's or child's behalf for his or her undergraduate education. In doing so, it limits the ability of parent's or guardian's creditors to have tuition payments voided to fulfill a debt to the creditor.

EFFECTIVE DATE: October 1, 2017

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 36 Nay 5 (04/03/2017)